

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 464 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

HS DAMOR

Versus

STATE OF GUJARAT

Appearance:

MR MUKUL SINHA for Petitioners

MR VB GHARANIA, AGP for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 12/08/1999

ORAL JUDGEMENT

#. Heard learned counsel for the parties.

#. In para 16 of this Special Civil Application, the petitioners stated that in the meeting of DPC, which was held in the year 1995 the cases of the petitioners were considered for promotion to the post of Government Labour Officer. The DPC after considering their cases has

adjudged both of them suitable for promotion to the post of Government Labour Officer. But, these recommendations were not given effect to as the petitioners were not having to their credit 7 years experience on the feeder post on that date. It is now no more in dispute that Rule 11A of Gujarat Civil Services (Classification and recruitment) Rules, 1967 have been interpreted by the apex court and it has been held that where the reserved category candidates with requisite experience of 7 years for promotion, as laid down are not available, the candidates having 2/3rd of the requisite experience are available they may be considered eligible for promotion and in case they are adjudged suitable for promotion by DPC they may be given promotion accordingly.

#. It is not in dispute that both the petitioners were fulfilled 2/3rd of requisite experience on the feeder post on that date on which their cases for promotion was considered by DPC. Despite of that they were not given promotion and they approached this court by filing Special Civil Application No.2457/96. In that Special Civil Application, statement has been made by the respondents therein that within 10 weeks from 26/7/96, the Legal Department will take a decision regarding promotion of the petitioners. Accordingly, in view of this statement of the counsel, who appeared for the respondents, the petitioners withdrew their petition aforesaid on 26/7/1996. It is not in dispute, the same is also ascertained by calling the Secretary of Department, the Law Department has already taken decision long back and the petitioners were held to be eligible for promotion.

#. In view of the apex court's decision the experience of the candidates belonging to reserved Category, who are possessing 2/3rd of requisite experience in feeder post are eligible for promotion the Legal Department has already decided the matter in favour of the petitioners and they have long been adjudged suitable for promotion by DPC the action of the respondents to withhold the promotion of the petitioners is wholly arbitrary and perverse.

#. In the result, this Special Civil Application succeeds and the same is allowed. The respondents are directed to give promotion as per the recommendation of the DPC, which met in the year 1995 to the petitioners on the post of Government Labour Officer. The petitioners shall be entitled for all consequential benefits also. Rule is made absolute accordingly. The respondents are directed to pay Rs.10,000/- as costs of this Special

Civil Application to the petitioners. The cost is imposed for the reason that these Scheduled Tribe employees have been dragged in the litigation twice because of this arbitrary and perverse approach of the officers of the State Government, which is totally contrary to the Hon'ble Supreme Court's decision.

(S.K.Keshote, J.)

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